



August 12, 2020

**VIA ELECTRONIC FILING**

Josh Minges, Esquire  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RE: Mrs. Alley v. Dominion Energy South Carolina, Inc.  
Answer and Motion to Dismiss of Dominion Energy South Carolina, Inc.  
Docket No. 2020-186-E

Dear Mr. Minges:

On or about August 4, 2020, Mrs. Alley<sup>1</sup> commenced the instant action by filing a complaint with the Public Service Commission of South Carolina ("Commission"). By way of this letter, Dominion Energy South Carolina, Inc. ("DESC" or "Company") hereby responds to the Complaint and respectfully requests that the Commission dismiss the Complaint on the ground that it fails to state a claim upon which relief can be granted. While the Commission is considering DESC's request, the Company also requests that the Commission toll the hearing date and the deadlines for filing testimony for all parties in the above-referenced docket.

In her Complaint,<sup>2</sup> Mrs. Alley complains about what she characterizes as "major problems related to the discriminatory aspects and dangerous aspects" of the Company's "Smart Meter Upgrade Opt Out Medical Waiver" form. DESC denies any wrongdoing and asserts that the Complaint fails to allege that DESC violated any applicable statute, law, regulation or order within the Commission's jurisdiction. As such, this Complaint should be dismissed.<sup>3</sup>

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<sup>1</sup> As an initial matter, DESC is unable to confirm that Mrs. Alley is a DESC customer with standing to bring a Complaint against DESC. DESC has many customers with the last name "Alley", but the Complaint does not identify a first name. The Complaint likewise does not identify a service address; it only provides a mailing address which DESC asserts, upon information and belief, is "The Mailroom at Parkland." Until Mrs. Alley proves that she is a customer of DESC, the Complaint should be dismissed due to lack of standing.

<sup>2</sup> Mrs. Alley's Complaint fails to satisfy the requirements of a complaint because it does not allege that DESC violated any applicable statute, law, regulation or order within the Commission's jurisdiction. A close reading of her Complaint reveals that it is more akin to public comments regarding the Company's Smart Meter Upgrade Opt Out Medical Waiver, which would more appropriately have been filed in Docket No. 2019-241-E/G when the Commission considered the Company's waiver medical form.

<sup>3</sup> Any allegation not specifically admitted hereinafter is hereby denied.

(Continued . . .)

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In Docket No. 2019-241-E/G, DESC petitioned the Commission for an accounting order related to the Company's deployment of Advanced Infrastructure Metering ("AMI"). By letter dated August 14, 2019, the South Carolina Office of Regulatory Staff ("ORS") indicated that it did not object to the Company's request but recommended that the Company's residential and non-demand customers be offered the option to "opt-out" of AMI deployment and, instead, have a meter where energy usage would not be communicated via radio frequency. The ORS also recommended that "DESC consider a medical waiver for the fees associated with the 'opt-out' option," with such medical waiver to "be consistent with the Commission's recent approval for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC in Docket Nos. 2016-354-E and 2018-262-E." By Order No. 2019-622, the Commission granted DESC the requested accounting order and specifically ordered DESC to "provide for a medical waiver for the fees associated with the opt-out consistent with such waivers recently approved by the Commission in Docket Nos. 2016-354-E and 2018-262-E."

On December 5, 2019, the Company filed with the Commission its AMI Customer Education Plan in compliance with Order No. 2019-622 and requested approval of its two Smart Meter Opt-Out Riders (for both retail electric and gas service). Consistent with those approved for Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") in Docket Nos. 2016-354-E and 2018-262-E, both of the Company's Smart Meter Opt-Out Riders provided as follows:

The Service Establishment Fee and Monthly Charge may be waived and not apply for customers providing a signed and certified medical waiver form from a medical doctor licensed in the state of South Carolina. Such form will require the customer's medical doctor to certify that the customer's health is negatively impacted by exposure to radio frequencies. This documentation will be provided to and retained by the Company and will be kept confidential.

(emphasis added).

By Order No. 2019-878, the Commission ordered DESC to provide further justification for the fees in its Smart Meter Opt-Out Riders and "also provide a draft waiver form." The Company provided the justification and the draft waiver form to the Commission on December 23, 2019. After reviewing the fee justifications and the draft medical waiver form, the Commission approved the Smart Meter Opt-Out Riders by Order No. 2020-86.

The first issue Mrs. Alley raises with respect to the Smart Meter Upgrade Opt Out Medical Waiver form is its requirement that the medical doctor that signs the form "be licensed in the state of South Carolina." As set forth above, this is a requirement of the Smart Meter Opt-Out Riders approved by the Commission in

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Order No. 2020-86. This requirement also complies with the requirement in Commission Order No. 2019-622 that the DESC medical waiver be consistent with the waivers approved for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (“DEP”) in Docket Nos. 2016-354-E and 2018-262-E, both of which require a notarized statement from a medical physician fully licensed by the South Carolina Board of Medical Examiners.

The second issue Mrs. Alley raises is that the Smart Meter Upgrade Opt Out Medical Waiver “requires people to agree to letting Dominion Energy contact the healthcare provider concerning the person’s medical condition but [that] there are no specifications on the limitations of access to a person’s medical files.” This provision simply allows the Company to contact the physician to confirm that the licensed physician did in fact provide his signature. This provision is necessary to aid the Company in preventing fraudulent waiver forms; the Company has experienced customers falsely providing a physician’s signature in the past to obtain medical waivers. Moreover, the Company asserts that Mrs. Alley’s concerns are unfounded in that the form is insufficient under federal and/or state law to allow a doctor to provide the Company with any and all doctors notes, x-ray copies and reports, CAT scan copies and reports, MRI copies and reports, ultrasound copy and reports, etc.

The third issue that Mrs. Alley raises is that the Smart Meter Upgrade Opt Out Medical Waiver “requires people to provide information that is unnecessary but [that] can definitely lead to identity theft once the information is put into a computer.” Mrs. Alley is specifically concerned about the following information: her house address, her service address, her telephone number, the last four digits of her person social security number and her date of birth. This information is routine information that the Company—and many other businesses—have and use to make identity verifications and confirm that it is in fact communicating with its customer.

Based upon the foregoing, DESC respectfully requests that the Complaint be dismissed. The Smart Meter Upgrade Opt Out Medical Waiver form is required by Commission Order No. 2019-622, is consistent with the DEC and DEP medical waivers approved by the Commission and was reviewed by the Commission prior to implementation. Mrs. Alley has failed to allege that DESC violated any applicable statute, rule, regulation, or order under this Commission’s jurisdiction.

DESC further requests that while the Commission is considering the Company’s request, the Commission toll the hearing date and the deadlines for filing testimony for all parties in the above-referenced docket.

Moreover, by copy of this letter, we are also informing upon Mrs. Alley that, pursuant to Commission Regulation 103-829, her response to this motion is due

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within ten (10) days after service of the motion. According to our calculations, upon Mrs. Alley's response is due on or before August 22, 2020.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,



Matthew W. Gissendanner

MWG/kms

cc: Mrs. Alley  
(via U.S. First Class Mail w/ enclosure)  
Christopher M. Huber, Esquire  
(both via electronic mail and U.S. First Class Mail w/ enclosure)